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Office of Electricity Ombudsman
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)
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Appeal No. F. ELECT/Ombudsman/2006/134

Appeal against Order dated 07.06.2006 passed by CGRF – BRPL in Case No.: CG/10/2006

In the matter of:

Shri Anil Kumar Batla - Appellant

Versus

M/s BSES Rajdhani Power Ltd - Respondent

Present:-

Appellant Shri Chander Pal authorized representative of the appellant

Respondent Shri Sanjay Kumar, Manager KCC, BRPL

Date of Hearing: 06.02.2007

Date of Order : 29.03.2007

ORDER NO. OMBUDSMAN/2007/134

The appellant filed this appeal dated 14.11.06 against CGRF – BRPL orders dated 7.06.06 and 12.10.06 in case no. CG/10/2006 as part relief was allowed in the estimated charges for getting 200 KW load on LT system.

In his appeal the appellant has prayed for amending orders dated 12.10.06 of CGRF by submitting that the pro-rata cost of augmentation amounting to Rs.9,68,229/- as per demand note dated 24.09.05 does not become chargeable to the appellant since the load as per tariff is available on L. T. on a "Higher Schedule of Rates" for "Demand and Consumption Charges" and system is to be developed and maintained by the Licensee at his own cost as per rules / regulations / Conditions of Supply.

It is further prayed that the new connection be processed without levying any cost towards augmentation of transformer and suitable compensation may be awarded for abnormal delay caused by the licensee.

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Perusal of contents of appeal, CGRF records and submissions made by the respondent show that:

- 1) On 23.08.2005 appellant applied to BRPL for a new connection for non domestic load of 200 KW on L.T. 400 volt supply.
- 2) Respondent agreed to supply 200 KW load on L.T. The existing 630 KVA transformer was required to be augmented to 990 KVA and Respondent informed the appellant vide letter dated 24.09.2005 to deposit the estimated cost of transformer augmentation along with service line charges amounting to Rs.14,70,783.
- 3) The appellant vide letter dated 25.10.2005 informed the Respondent that the estimated charges are too much inflated, exorbitant and some error is apprehended. The charges, except service line charges, are inbuilt in the tariff structure providing higher rate of demand charges and energy charges for HT connection on L.T. supply. Appellant requested Respondent to re-examine the estimates.
- 4) As the appellant did not receive any response from the Respondent, he filed a complaint in CGRF-BRPL on 12.12.2005.
- 5) CGRF-BRPL passed orders on 07.06.2006 and gave part relief in the estimated charges.
- 6) Appellant filed review application in the CGRF stating that the main issue of cost of system improvement / augmentation of transformer capacity is inbuilt in the tariff structure and this has not been addressed in the order dated 07.06.2006.
- 7) CGRF-BRPL again, after hearing both the parties passed another order dated 12.10.2006. Not satisfied with CGRF order appellant filed this appeal.

After examining the submissions made in the appeal, reply filed by Respondent, CGRF orders dated 07.06.2006 and 12.10.2006, Conditions of Supply and DERC Regulations on the issue under consideration, the case was fixed for hearing on 06.02.2007.

On 6.2.07 Shri Chander Pal authorized representative of the appellant attended.

Shri Sanjay Kumar, Manager KCC, BRPL attended on behalf of the Discom.

During the hearing the appellant made the following submissions:

- a) CGRF has only cast their opinion instead of a decision as per Rules and Regulations.
- b) The internal policy of BSES for charging on pro-rata cost of transformer augmentation is without authority of Law and approval of DERC;

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- c) CGRF has not appreciated that the cost of system augmentation including sub-station must be an integral part of capital investment and R&M expenditure for growing load demand and are therefore, inbuilt in the tariff.
 - d) As per Conditions of Supply, still valid, under clause 6 (ii) only cost of service line is to be charged with 100 feet free not on consumer premises without cost of transformer etc.;
 - e) Appellant prayed that new connection of 200 KW on LT supply be provided without charging cost of augmentation.

Shri Sanjay Kumar, Manager KCC on behalf of respondent argued that the estimate has been prepared as per policy approved by BSES for charging pro-rata cost of augmentation and as per CGRF order (allowing certain reliefs).

Shri Sanjay Kumar drew the attention of the court to the respondent's letter dated 04.01.2007 wherein, it is submitted that

1. As per DERC order on ARR and tariff petition of BRPL for FY 2006-07. The MLHT consumers availing LT supply are required to pay higher demand charges as compared to MLHT consumers availing supply at 11 KV. The higher the voltage of supply, the lower the system losses and hence the consumption by MLHT consumers at LT voltages has to be discouraged.
2. The policy of charging pro rata cost of transformer for load between 100 KW and 200 KW (Where it is necessary to augment the transformer for meeting the load requirement of consumer) on LT system of supply is in existence since the time of erstwhile DVB.
3. Shri Sanjay Kumar referred to the BSES approved policy of charging cost of augmentation of transformer as follows: "where load can be met by augmenting capacity of the existing transformer, **the cost of augmentation will be recovered from the applicant along with cost of service line as per actual, after allowing due credit for the depreciated value of transformer.**"

During the hearing the following issues were deliberated upon:

- 1) Whether pro-rata cost of transformer augmentation is chargeable,
- 2) If chargeable, whether the methodology adopted and estimate prepared on pro-rata basis by Manager KCC of BRPL is correct,

1) **Pro-rata cost of augmentation**

The appellant placed reliance on clause 6 (ii) of Conditions of Supply which provides for only Service Line charges as payable without cost of transformer augmentation. It was brought to his notice that clause 38 of Conditions of Supply empowers the Undertaking "the right at any time to amend, cancel or to add to any of these conditions and schedule of service and miscellaneous charges." DERC has vide its order no. F. 8 (ii) DERC/2002-03/942-44 dated 02.06.03 approved the service line charges for various categories of load and schedule of miscellaneous charges. These charges are applicable from 16.06.2003 and are valid till further orders. It is stated in DERC order that **for load above 100 KW on 11 KV the total cost of providing the service (including HT feed cost of switch gear panel etc. upto metering cubicle, excluding the cost of metering equipment) shall be shared between the company and consumer on 50:50 basis. However for load upto 200 KW on LT supply, DERC guidelines of 02.06.2003 are silent.**

It is evident from the above DERC orders that the clause 6 (ii) of Conditions of supply stands amended.

It is also observed that for getting a HT connection above 100 KW load on 11 KV supply system, consumer has to provide:

- a) Built up sub-station space within the premises.
- b) Installation of his own 11 KV/400 volt transformer along with HT, LT panels,
- c) Operate and maintain the above equipment at his own cost.

Whereas for HT connection (above 100 KW load) on LT system supply, Respondent has to augment the capacity of transformer (in this case 630 KVA to 990 KVA), operate and maintain the transformer at his own cost. As metering is done on LT side, the transformer losses are also borne by the Respondent. Because of the operational and maintenance cost in addition to the transformer losses borne by the Respondent the LT tariff is kept higher than HT tariff. Also higher tariff discourages HT consumers to take load on LT supply.

Further, if only service line charges are to be charged from consumers for getting HT connection on LT supply (as prayed by the appellant) i.e. without charging cost of augmentation then every HT consumer will feel tempted for getting HT connection on LT supply as he is benefited by not taking the burden of (a), (b), (c) above. Hence pro-rata cost of augmentation is chargeable where above 100 KW load is to be given on LT supply where augmentation has become necessary to facilitate 200 KW load on LT system.

From the above it is evident that the appellant's contention (no cost of transformer augmentation be charged to appellant) cannot be upheld and that

pro-rata cost is to be charged from the appellant for augmentation of the transformer.

(ii) Methodology of charging pro-rata cost of augmentation

In his written reply Manager KCC informed that cost of augmentation has been worked out by taking cost of installing new 990 KVA transformer excluding the depreciated cost of earlier 630 KVA transformer. This cost of 990 KVA has been taken as cost of augmented capacity of 360 KVA (990-630 KVA) and from this cost the appellant's share of pro-rata cost has been calculated for the appellant's load of 200KW. As per the DISCOM working the consumer's share is Rs.9,68,228/- for augmenting the transformer and the BSES share is only Rs.68,744/-. This would mean that the BSES has in its possession, the earlier transformer of 630 KVA plus the new transformer of 990 KVA at a cost of Rs.68,744/- whereas the consumer pays Rs.9,68,228/- for a load of 200 KW. In fact the licensee was already supplying electricity to various consumers and after augmentation of this 630 KVA transformer to 990 KVA it will have this transformer for such users and a surplus capacity for others.

The methodology adopted by the respondent for working out the pro-rata cost however, does not seem to be fair and equitable because by this method almost the entire cost of installation of 990 KVA transformer is charged to the appellant whose load is only 200 KW. As per DISCOM working the pro-rata cost to be charged to the Appellant is Rs.9,68,229/- whereas the BSES share is Rs.68,744/-

The submissions made by DISCOM before CGRF showed that the total estimated cost works out to Rs.15,49,528/- out of which the appellant share is Rs.14,70,784/-.

The above chargeable amount worked out does not appear to be fair as the BSES is installing a new transformer of 990 KVA whereas the appellant has asked for 200 KW load. Obviously, the appellant cannot be made to pay for a 990 KVA transformer as 630 KVA capacity is already under use by BSES for various existing consumers.

It is therefore directed that the cost of installation of 990 KVA transformer (excluding depreciated cost of existing 630 KVA transformer) be shared between the DISCOM and the Appellant on pro-rata basis in ratio of 990 KVA: 200 KW.(235KVA)

As such pro-rata share of the appellant cost of augmented capacity of 990 KVA is to be calculated as under:

(i) Let the cost of installing 990 KVA transformer

(excluding depreciated cost of 630 KVA transformer) be $= X$

(ii) Therefore the pro-rate cost of appellant share of 235 KVA (200 KW) = $\frac{X}{990} \times 235 = Y$

The cost Y is payable by the appellant as his share of cost of augmentation of transformer.

Accordingly, Manager KCC was directed to submit the revised estimates by 09.02.07 in the manner indicated above.

Instead of submitting the revised estimates as per direction given during the hearing, Vice President of BRPL submitted vide his letter dated 13.02.07 that the demand estimates to be re-worked are not consistent with DERC norms or even CGRF order in this case. However no copy of DERC norms relied upon by him was enclosed with the said letter nor did he elucidate in what manner the direction given during hearing for revising the estimates was inconsistent with the DERC norms. On granting further opportunity to him to produce the DERC norms relied upon by him he submitted a letter dated 14/03/2007 (received on 22/03/07) which has also not enclosed any DERC guidelines or order on the issue.

In fact it appears that there are no guidelines of the DERC on this issue and the "approved policy" of the BRPL does not have the approval of the DERC, because the Manager KCC has in his letter dated 7.2.06 submitted to the CGRF for this purpose, stated that "we have referred the matter to DGM (RCM) for issue of guidelines by DERC".

It is therefore directed that the method suggested above may be adopted for working out the pro-rata cost payable by the appellant towards augmentation of transformer till such time as the DERC guidelines are issued in this regard.

Respondent is directed to issue demand on revised estimates based on above guidelines.

The appeal is partly allowed and the CGRF order is set aside.


(Asha Mehra)
Ombudsman